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U.S. Citizenship
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Services

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MAY 25 2004

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:

APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 210 of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant had admitted under oath that she had *not* performed qualifying agricultural employment during the statutory period, as previously claimed on her application.

On appeal, counsel for the applicant asserted that the applicant denies ever having previously admitted that her employment verification documentation was fraudulent. Counsel also requests a copy of the applicant's legalization file, indicating that a more detailed response would be submitted once he and the applicant are in possession of this information. According to the record, the Service (now, Citizenship and Immigration Services or CIS) subsequently complied with counsel's request on December 10, 2003. As of this date, however, no further evidence or statement has been received from counsel or the applicant.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d).

On the Form I-700 application, the applicant claimed to have performed 94 man-days of agricultural employment at Rio Bravo farm in Bakersfield, California. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and separate employment verification statement, both purportedly signed by Jesus Camacho, who is designated as "farm labor contractor."

Subsequently, on August 23, 1988, while attempting to reenter the U.S. at the Otay Mesa, California, port of entry, the applicant admitted under oath in the presence of a Service officer: (1) that she had never performed agricultural field work, as she had originally claimed on her SAW application; (2) that she purchased fraudulent documentation in support of her SAW application from an individual named "Susana," an employee at Rockhouse Packing in Bakersfield, California; and (3) that she entered the U.S. for the first time in 1987. This information directly contradicts the applicant's subsequent claim to have performed qualifying agricultural employment during the twelve-month eligibility period ending May 1, 1986.

Accordingly, on December 23, 1991, the director denied the application based on the applicant's sworn admission.

On appeal, the applicant recants her previous admission and denied ever having admitted fraudulent employment documentation in support of the application.

An applicant raises serious questions of credibility when she admits to having provided false information or fraudulent documentation in the application process. An inference cannot be drawn that the information or documentation is accurate simply because the applicant recants his admission.

Even in cases where the burden of proof is upon the government, such as in deportation proceedings, a previous sworn statement voluntarily made by an alien is admissible, and is not in violation of due process or

fair hearing. Matter of Pang, 11 I&N Dec. 213 (BIA 1965). Furthermore, in the absence of exceptional circumstances, a challenge to the voluntariness of an admission or confession will not be entertained when first made on appeal. Matter of Stapleton, 15 I&N Dec. 469 (BIA 1975).

The applicant, on appeal, failed to provide any additional, independent, corroborative evidence to support her employment claim to have performed seasonal agricultural employment *or* to rebut the derogatory information provided in her August 23, 1988 admission under oath to the Service. That admission by the applicant has cast doubt on the credibility of her claim and supporting documentation.

Accordingly, the employment documentation furnished by the applicant cannot be deemed credible. Under these circumstances, it cannot be concluded the applicant has credibly established the performance of at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.